

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

**TENNECO AUTOMOTIVE
CO., INC.,**

Plaintiff,

CIVIL ACTION NO. 08-CV-10467-DT

VS.

DISTRICT JUDGE GEORGE CARAM STEEH

**KINGDOM AUTO PARTS,
et al.,**

Defendants.

MAGISTRATE JUDGE MONA K. MAJZOUN

**OPINION AND ORDER DENYING DEFENDANTS’
MOTION FOR PROTECTIVE ORDER**

This matter comes before the Court on Defendants’ Motion for Protective Order filed on July 18, 2008. (Docket no. 59). Plaintiff has responded. (Docket no. 64). Defendants have filed a Reply brief. (Docket no. 65). This motion has been referred to the undersigned for decision. (Docket no. 60). The Court dispenses with oral argument pursuant to E.D. Mich. LR 7.1(e). Defendants’ motion is now ready for ruling.

Defendants seek a protective order regarding Plaintiff’s service of a subpoena for the deposition of non-party Mr. Grill and for the production of documents from him. (Docket no. 59). Specifically, Defendants request that this Court order that Mr. Grill’s deposition be re-scheduled, afford Defendants’ counsel an opportunity to object to the categories of documents to be produced by Mr. Grill, and condition the production of documents on the entry of a confidentiality order. (*Id.* at 2). However, in their Reply brief Defendants reveal that Plaintiff’s counsel deposed Mr. Grill on July 23, 2008. (Docket no. 65 at 6). Also, Mr. Grill has served his independent objection to the document production opposed by Defendants which obviates the need for a protective order on that ground, according to Defendants. (*Id.*). Finally, Defendants state that they will separately move for

the entry of a confidentiality order. (*Id.*). The Court therefore finds that Defendants' Motion for Protective Order is now moot, and it will be denied on that basis.

Additionally, the Court declines to award sanctions. The parties appear to be more interested in disparaging their opponent's actions than in cooperating in discovery and following the discovery rules. The Court orders the parties to better cooperate in their discovery efforts and, most immediately, to cooperate in drafting a mutually acceptable confidentiality order to facilitate document production in this action.

IT IS THEREFORE ORDERED that Defendants' Motion for Protective Order (docket no. 59) is **DENIED AS MOOT**.

NOTICE TO THE PARTIES

Pursuant to Fed. R. Civ. P. 72(a), the parties have a period of ten days from the date of this Order within which to file any written appeal to the District Judge as may be permissible under 28 U.S.C. 636(b)(1).

Dated: August 11, 2008

s/ Mona K. Majzoub
MONA K. MAJZOUB
UNITED STATES MAGISTRATE JUDGE

PROOF OF SERVICE

I hereby certify that a copy of this Opinion and Order was served upon Counsel of Record on this date.

Dated: August 11, 2008

s/ Lisa C. Bartlett
Courtroom Deputy